

ORAZIO BALASSO

JULY 1, 1952.—Committed to the Committee of the Whole House and  
ordered to be printed

Mr. WALTER, from the Committee on the Judiciary, submitted the  
the following

REPORT

[To accompany S. 423]

The Committee on the Judiciary, to whom was referred the bill (S. 423) for the relief of Orazio Balasso, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Orazio Balasso. The bill provides for an appropriate quota deduction and for the payment of the required visa fee and head tax.

GENERAL INFORMATION

The beneficiary of the bill was born in Italy in 1893 and has resided in the United States for a total of 32 years. He was originally admitted for permanent residence in 1913 and returned to Italy in 1922 where he was married. He returned here in 1929 and was admitted as a treaty merchant. He applied for citizenship in 1941 and on advice of counsel he failed to mention his absence from 1922 to 1929. He was convicted for making false statements and received a suspended sentence of 6 months and was fined \$100. He has an otherwise good record and both the sentencing judge and the probation officer in the case speak well of him. Administrative relief was authorized in 1950 when he was granted voluntary departure and preexamination but due to the oversubscription of the Italian quota he was unable to avail himself of this relief.

A letter dated December 5, 1951, to the chairman of the Senate Committee on the Judiciary from the Deputy Attorney General with reference to the case reads as follows:

DEPARTMENT OF JUSTICE,  
OFFICE OF THE DEPUTY ATTORNEY GENERAL  
Washington, December 5, 1951.

Hon. PAT McCARRAN,  
*Chairman, Committee on the Judiciary,  
United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice relative to the bill (S. 423) for the relief of Orazio Balasso, an alien.

The bill would provide that Orazio Balasso shall be considered to have been lawfully admitted to the United States for permanent residence as of the date of its enactment, upon payment of the required visa fee and head tax. It would also direct the Secretary of State to instruct the quota-control officer to deduct one number from the appropriate immigration quota.

The files of the Immigration and Naturalization Service of this Department disclose that Mr. Balasso is a citizen of Italy, who was born in Montecchio, Italy, on April 18, 1893. He last entered the United States on May 13, 1929, when he was admitted as a treaty merchant under section 3 (6) of the Immigration Act of 1924. His first entry occurred on June 9, 1913, when he was admitted for permanent residence. In 1922, the alien departed for Italy, where he married and established a home. Three children were born of that marriage. His wife and children have never resided in the United States. Mr. Balasso remained abroad until his departure for this country in 1929. Because of his long absence in the country of his birth, his marriage, and the establishment of a home there for his family, he was held to have relinquished any rights he may have had as a resident alien acquired through his permanent admission in 1913. On October 13, 1947, a warrant of arrest was issued against him charging that he was illegally in the United States in that he had remained in this country after failing to maintain the status under which he was admitted, namely, that of an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of an existing treaty of commerce and navigation. On February 26, 1948, it was recommended that he be deported to Italy on the charge that at the time of entry he was an immigrant not in possession of a valid immigration visa. During the course of the hearing held under the warrant of arrest, Mr. Balasso admitted that he had made false statements in connection with naturalization proceedings. It appears that in 1941, when he filed a declaration of intention to become a citizen of the United States he declared under oath that he last entered the United States on June 9, 1913, and that he was not married. On June 27, 1946, when he executed a petition for naturalization under oath, he repeated those false statements. On November 10, 1947, he pleaded guilty in the United States District Court in Milwaukee, Wis., to the charge of violating section 746 (a) (1) of title 8, United States Code, which makes it a felony knowingly to make a false statement under oath in naturalization proceedings. He was fined \$100 and a sentence of 6 months' imprisonment was suspended. The alien was placed on probation for 1 year on condition that he pay the fine in 30 days.

On December 14, 1949, Mr. Balasso's applications for suspension of deportation or voluntary departure and preexamination were denied and he was ordered deported. On March 10, 1950, the Board of Immigration Appeals ordered that the order of deportation be withdrawn, that the alien be required to depart from the United States to any country of his choice within 6 months, and that preexamination be authorized. The Board further directed that if Mr. Balasso reapplied for admission within 3 months from the date of his authorized departure, he be admitted if otherwise admissible than as one who admits the commission of the crime of making false statements under oath in the naturalization proceedings during the years 1941 and 1946, pursuant to the discretion contained in the seventh proviso to section 3 of the Immigration Act of 1917, as amended, subject to revocation at the discretion of the Attorney General, after hearing, if the alien thereafter committed any crime. On February 20, 1951, the alien was granted an additional period of 3 months within which to depart from this country.

The files further reflect that the alien has been employed by the same firm as a laborer and machine operator since May 1929. Mr. Balasso claims that he has always sent money to his wife for the support of their three children, the youngest of whom is apparently now 23 years of age.

The quota for Italy, to which the alien is chargeable, is oversubscribed and an immigration visa is not readily obtainable. The record fails, however, to present

considerations which would justify the enactment of special legislation granting him an exemption from the requirements of the general immigration laws.

Accordingly, the Department of Justice is unable to recommend enactment of the bill.

Sincerely,

A. DEVITT VANECH,  
*Deputy Attorney General.*

Senator Alexander Wiley, the author of the bill, has submitted the following additional information in support of the bill:

SUPPLEMENTAL STATEMENT AND EXHIBITS IN THE MATTER OF THE RECONSIDERATION OF SENATE BILL 423 FOR THE RELIEF OF ORAZIO BALASSO, AN ALIEN

*To the Honorable Pat McCarran, Chairman of the Senate Committee on the Judiciary:*

The following supplemental statement of facts and exhibits is being presented for the purpose of reconsideration for the granting of relief to Orazio Balasso under Senate bill 423:

1. Certified transcript of proceedings upon arraignment and plea in the case of the *United States of America v. Orazio Balasso*, being Case No. 42 Crim. T. held in the District Court of the United States for the Eastern District of Wisconsin, on November 10, 1947, and presided over by the Honorable F. Ryan Duffy.
2. Certified transcript of proceedings upon imposition of sentence in the case of the *United States of America v. Orazio Balasso*, being Case No. 42 Crim. T. held in the District Court of the United States for the Eastern District of Wisconsin, on January 12, 1948, and presided over by the Honorable F. Ryan Duffy.
3. Letter dated May 5, 1952, issued out of the office of the probation department for the United States District Court, Eastern District of Wisconsin, signed by Chief Probation Officer Roy Belter.
4. Letter dated April 30, 1952, of the Pressed Steel Tank Co. of Milwaukee, and signed by H. L. Newton, works manager.
5. Letter dated May 6, 1952, of the National Civic League, signed by James D. Sammarco, general counsel.
6. Letter dated May 6, 1952, from International Institute of Milwaukee County.
7. Letter dated May 5, 1952, of St. Rita's Church, signed by Reverend Zanon.
8. Petition to Senator Pat McCarran, chairman of the Senate Committee on the Judiciary, signed by coworkers of Orazio Balasso.
9. Petition to Senator Pat McCarran, chairman of the Senate Committee on the Judiciary, signed by friends of Orazio Balasso.

AMENDED STATEMENT OF FACTS

Orazio Balasso is a resident of Milwaukee County, Wis.

On June 9, 1913, the petitioner, then of the age of 20 years, entered the United States and except for the period between 1922 and 1929, has at all times resided here.

On or about July 9, 1941, Mr. Balasso was informed by a practicing attorney in the city of Milwaukee, that it could be arranged for Mr. Balasso to file on his behalf, a declaration of intention to become an American citizen. Mr. Balasso submitted to the attorney his passport and all the necessary information for the preparation of the declaration. The attorney prepared the same in a manner contrary to the facts, and so ill-advised Mr. Balasso with the result that on November 10, 1947, he became involved in difficulties with the Immigration and Naturalization Department. For this work, the attorney charged an unconscionable fee. Mr. Balasso paid said fee because of his ignorance of the law as to the maximum amount that a lawyer is limited to charge in the preparation of such documents.

As a result of the bad advice so received, Mr. Balasso was placed under arrest for making a false statement concerning his petition for final naturalization. On November 10, 1947, he was arraigned in the United States District Court, Eastern District of Wisconsin, before the Hon. F. Ryan Duffy. Upon advice of counsel, the indictment was waived and a plea of "guilty" was entered.

A presentence investigation was ordered, which presentence examination disclosed the fact that the defendant, Orazio Balasso, was a man of excellent character, and upon such investigation the court did, on January 12, 1948, upon Mr. Balasso's plea of "guilty," find the defendant guilty and sentenced the defendant

to be committed to the custody of the Attorney General of the United States for confinement in a Federal Correctional Institution for a period of 6 months and assessed a fine of \$100. Sentence was immediately suspended and Mr. Balasso was placed on probation for 1 year.

As to the deportation matter then pending before the Immigration Department, the Board of Immigration Appeals did, on March 10, 1950, withdraw its order of deportation and required that the alien freely depart from the United States to any country of his choice within 6 months, and authorized preexamination with the further recommendation that Mr. Balasso reapply for admission within 3 months from the date of authorized departure. This privilege, so extended by the Board to Mr. Balasso, did not offer him any relief as he could not receive a quota number in view of the fact that the quota for Italy has been oversubscribed for approximately the next 3 years.

International Institute of Milwaukee County, and all those who have worked on Mr. Balasso's behalf, are of the opinion that if Mr. Balasso did not possess excellent moral character, the Board of Immigration Appeals would certainly not have permitted Mr. Balasso to depart voluntarily for the purpose of reentry with the right of preexamination.

Exhibits 1 and 2 contain the entire transcript of the arraignment, plea, and imposition of sentence upon Mr. Balasso.

At page 3 of exhibit 2, the court stated as follows:

"The Court. The probation department reports this way: He has an excellent work record and has lived within the law, has handled money well, apparently has felt some financial responsibility toward his wife and children in Italy. So, as far as his work is concerned there is no complaint, I guess, at all."

At page 6 of exhibit 2, the court stated as follows:

"The Court. I think that this man has been a pretty good fellow since he has been over here; he has worked hard and provided for his family, and he undoubtedly got some bad advice all right, and apparently from an attorney. He did make the false statements, and that is a serious matter. I find that he has had no previous police contacts. He has been really—except for that, there is nothing in his record at all to condemn him."

At page 7 of exhibit 2, the court stated as follows:

"The Court. Oh, yes. It seems to me that this fellow, except for his bad advice, is a pretty good fellow and they shouldn't be too rough on him, but that is up to them; I can't run their department for them."

Personally knowing the Honorable F. Ryan Duffy, the then judge of the district court for the eastern district of Wisconsin, who is now a justice of the circuit court of appeals, for his fairness in the trial of criminal cases, it appears that the trial judge felt that the defendant Balasso had been unfairly dealt with when he sought the advice of a man who was presumably learned in the law. The judge stated (p. 6 of exhibit 2) "\* \* \* and he undoubtedly got some bad advice all right, and apparently from an attorney. \* \* \* He has been really—except for that, there is nothing in his record to condemn him."

Keeping in mind the light sentence meted out to Mr. Balasso, the court apparently felt that Mr. Balasso had been grossly misled by an unscrupulous lawyer and felt that Mr. Balasso should be dealt with in a like manner when he appeared before the Immigration and Naturalization Department. This is evident from the foregoing excerpts of the testimony, especially when the court states that except for the bad advice that Mr. Balasso had received he was a pretty good fellow and they (meaning the Immigration and Naturalization Department) shouldn't be too rough on him (meaning Mr. Balasso). This in and of itself amounts to a recommendation that Mr. Balasso, being of good character, should be dealt with in the light of such good character.

The court's feeling in the matter is further substantiated by the recent letter (exhibit 3) of the chief probation officer of the probation department of the United States district court, dated May 5, 1952, which gives a very comprehensive summary of the Department's opinion in the matter. I wish to call to the attention of your honorable committee that in the résumé on page 2 of exhibit 3, the chief probation officer states:

"At close of his probation it was our confident opinion that Balasso's future conduct would continue at the same high level which he exhibited in the past."

This is followed by the following comment:

"We are earnestly hopeful that Balasso's difficulties with the Immigration and Naturalization Department can be adjusted so that it will not be necessary for Balasso to be deported from the United States."



Who can be more qualified and capable of knowing Mr. Balasso's excellent reputation and morals than the court before whom he appeared and the chief probation officer who carried on the direct contact work during the probationary period? Certainly the statements and recommendation of the trial court at the time of sentence, together with the finding and recommendation of the probation department that Mr. Balasso is a man of excellent character and that the probation department is hopeful that it will not be necessary for Mr. Balasso to be deported from the United States, should carry great weight with the committee in its arriving at a favorable reconsideration of the matter and recommendation that the proposed bill granting Mr. Balasso relief be passed.

Reference is made to the letter (exhibit 4) of recommendation to the committee of the Pressed Steel Tank Co. where Mr. Balasso has been employed for many years. The company states that as a result of Mr. Balasso's continuous employment, they have come to the conclusion that he is possessed of excellent character and highest morals, and certainly this statement coming from the firm for whom Mr. Balasso has worked for 23 years, should be considered by the committee in arriving at a different conclusion than the one heretofore reached.

Reference is made to the letter (exhibit 7) of Reverend Zanon of St. Rita's Church of Milwaukee, Wis. He also states that Mr. Balasso has enjoyed a good reputation during his many years in the community and is possessed of excellent character and morals. Certainly, Reverend Zanon would be in an excellent position to know of Mr. Balasso's reputation as to character and morals, and his statement to the committee becomes very important, as the alleged offense of Mr. Balasso is one which we technically call a violation involving moral turpitude.

Reference is made to the letter (exhibit 6) of International Institute of Milwaukee County. When this case was referred to us for attention, we immediately set about gathering the facts and as a member of the board of directors, I can verify and truthfully say that the letter of International Institute results from the very close contact we have had in this case. It is the opinion of the International Institute of Milwaukee County that Mr. Balasso is a man of excellent character, good morals and would certainly make an excellent American citizen.

The letter of the National Civic League (exhibit 5) which is a national organization interested in good American citizenship, immigration matters, and scholarships among our younger people, is written because of the fact that Mr. Balasso has been one who has been actively interested in local civic matters, particularly the granting of relief and scholarships to young students who are interested in furthering their education in college. This is certainly a meritorious work and the close association between the officers of the local chapter of the National Civic League with the work of Mr. Balasso, certainly supports the fact that he would make an excellent American citizen and that relief should be granted him under this special bill.

The petition of the employees, coworkers of Mr. Balasso at the Pressed Steel Tank Co., which petition was passed around with the consent and help of the officers of the Pressed Steel Tank Co., certainly is a tribute to Mr. Balasso's good behavior and excellent character.

There is also submitted a petition to your honorable committee by many friends of Mr. Balasso, who are anxious that reconsideration and favorable recommendation be given by the committee to Senate bill No. 423 for the relief of Mr. Balasso. This petition could have contained many more names, but it does express the general sentiment of a group of Americans who, knowing Mr. Balasso, feel that they would welcome him as a permanent resident and American citizen.

#### CONCLUSION

Mr. Balasso, who is presently 58 years of age, has oriented himself to our way of life. To compel him, through deportation proceedings, to go back to a way of life now unknown to him will cause him great hardship and will amount to cruel and inhuman punishment resulting from no fault of the alien, but from the bad advice given to him by a lawyer who was more interested in a fee rather than the welfare of his client.

In 2 years, Mr. Balasso will have completed 25 years of service with his present employer, Pressed Steel Tank Co., and as a result of such service, he would become eligible for retirement and pension. Deportation of Mr. Balasso would not only mean a loss of his pension and an economic hardship, but would also mean the loss of an opportunity to spend his declining years in a country which he has grown to love. Mr. Balasso's past record justifies your honorable committee to grant him relief so that he may spend the balance of his years among his friends in the United States.

The various exhibits, particularly the transcript containing the opinion of the trial judge at the time of sentence, together with the letter of recommendation and request to your honorable committee for favorable action, coming from the chief probation officer of the probation department for the United States district court, attest to the fact that Mr. Balasso is a person of excellent character and will make a good American citizen.

The various letters, particularly that of Reverend Zanon of St. Rita's Church, together with the petitions, certainly disclose a case of real hardship and one in which equitable relief should be granted to Mr. Balasso through a favorable recommendation by the committee and the passing of Senate bill 423.

Mr. Balasso and I greatly appreciate the work of your honorable committee in permitting Mr. Balasso to gather and submit new and further evidence in the matter in support of his petition for relief.

Respectfully submitted,

JAMES D. SAMMARCO,  
Attorney for Orazio Balasso.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 423) should be enacted.